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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ROBERT KENNY,

11 Plaintiff,

12 v.
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14 PACIFIC INVESTMENT MANAGEMENT
15 COMPANY LLC, a Delaware limited liability
16 company; PIMCO INVESTMENTS LLC,

17 Defendants.

Case No. C14-1987 RSM

ORDER GRANTING DEFENDANTS'
MOTION TO STRIKE JURY DEMAND

18 This matter comes before the Court on Defendants' Motion to Strike Plaintiff's Jury
19 Demand. Dkt. #206. Plaintiff brings claims under Section 36(b) of the ICA, 15 U.S.C. § 80a-
20 35(b). *See* Dkt. #1. Plaintiff "demands a trial by jury on all claims so triable." *Id.* at ¶ 172.

21 Defendants argue that Section 36(b) claims are equitable in nature, and that substantial
22 case law indicates Plaintiff is not entitled to a trial by jury. *See* Dkt. #206 at 4 n.1.

23 Plaintiff "acknowledges that there is no binding precedent in the Ninth Circuit regarding
24 whether or not a plaintiff is entitled to a jury trial for claims under Section 36(b) of the
25 Investment Company Act, 15 U.S.C. § 80a-35(b), and that other courts have held there is no
26 right to a jury trial." Dkt. #209 at 2. Plaintiff requests that the Court empanel an advisory jury
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1 pursuant to Rule 39(c)(1) of the Federal Rules of Civil Procedure. *Id.* Plaintiff argues this case
2 “implicate[s] issues of national public policy,” and that “an advisory jury could also help the
3 Court determine the credibility of the witnesses and help assess whether PIMCO complied with
4 its fiduciary obligations.” *Id.* at 4.

5 The Court agrees with Defendants that Plaintiff’s claims are equitable in nature and that
6 Plaintiff is not entitled to a jury trial. *See, e.g., Kalish v. Franklin Advisers, Inc.*, 928 F.2d 590,
7 591-92 (2d Cir. 1991). Turning to Plaintiff’s request for an advisory jury, Plaintiff points to
8 general reasons why advisory juries have been used in other cases, but does not sufficiently
9 elaborate on why one is needed in this case. Issues of public policy and questions of credibility
10 are present in many cases, including cases this Court has previously handled without a jury.
11 The Court declines Plaintiff’s request at this time.

12 Having reviewed the relevant briefing, the declarations and exhibits attached thereto,
13 and the remainder of the record, the Court hereby finds and ORDERS that Defendant’s Motion
14 to Strike Plaintiff’s Jury Demand (Dkt. #206) is GRANTED.

15 DATED this 25th day of May 2018.

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RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE